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R 1207.0008

EXAMINER

PREBILIC, P

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HOUSTON, TX 77079

ART UNIT	PAPER NUMBER
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338

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DATE MAILED: 06/13/91

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☒ Responsive to communication filed on 2-19-91 ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), _____ days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input type="checkbox"/> Notice re Patent Drawing, PTO-948. |
| 3. <input checked="" type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449. | 4. <input type="checkbox"/> Notice of Informal Patent Application, Form PTO-152 |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/> _____ |

Part II SUMMARY OF ACTION

1. ☒ Claims 1-6 are pending in the application.

Of the above, claims _____ are withdrawn from consideration.

2. ☐ Claims _____ have been cancelled.

3. ☐ Claims _____ are allowed.

4. ☒ Claims 1-6 are rejected.

5. ☐ Claims _____ are objected to.

6. ☐ Claims _____ are subject to restriction or election requirement.

7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8. ☐ Formal drawings are required in response to this Office action.

9. ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice re Patent Drawing, PTO-948).

10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).

11. ☐ The proposed drawing correction, filed _____, has been ☐ approved; ☐ disapproved (see explanation).

12. ☐ Acknowledgement is made of the claim for priority under U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. _____; filed on _____.

13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14. ☐ Other

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The amendment to line 13 directly below the heading "IN THE CLAIMS" of the amendment filed December 20, 1990 could not be entered because it does not give a claim or page number therewith. However, it is clear that claim 1 was the intended target for this change. Therefore, the examiner will treat claim 1 as if the change were made.

The drawings are objected to because Figures 1A, 1B, 3, 4, 5, and 6 are clearly depictions of prior art devices; see any one of the three Palmaz patents of record. Therefore, these figures should be labeled as "PRIOR ART" in order to distinguish the present invention from the prior art. The Applicant is respectfully requested to submit proposed drawing changes with the response to this Office Action. Correction is required.

Claims 1-6 are rejected under 35 U.S.C. 112, first and second paragraphs, as the claimed invention is not described in such full, clear, concise and exact terms as to enable any person skilled in the art to make and use the same, and/or for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6/11/91
In re claims 1-6, the newly added language of "only one" connector member is confused by the applicant's accompanying remarks [see page 3, first paragraph of the amendment filed on December 20, 1990 but entered on February 19, 1991] which states that "only one" does not mean "only one". Since there is no basis for this stated definition in the original specification, this new language may constitute new matter under 35 USC 112, first paragraph. In addition, it is not clear how limiting this new language is intended to be or what constitutes a physical example of this language. For this reason, a 35 USC 112, second paragraph rejection also appears appropriate.

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

"A person shall be entitled to a patent unless -
(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent."

Claims 1, 2, 4, and 5 are rejected under 35 U.S.C. § 102 (e) as being clearly anticipated by Wiktor.

Regarding claims 1, 2, 4, and 5, Wiktor meets the claim language fully wherein the each of the sections such as (4) or (5) constitutes a thin-walled tubular member and the bent portion pointed at by reference number (6) constitutes the connector as claimed; see Figure 1; the Abstract; Col. 2, line 34 to Col. 3, line 28.

The following is a quotation of 35 U.S.C. 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claims 3 and 6 are rejected under 35 U.S.C. 103 as being unpatentable over Wiktor in view of Yoshioka et al (journal article)*.

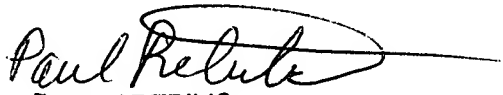
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In re claims 3 and 6, Wiktor meets the claim language except for the connector members being angularly offset with respect to the longitudinal axis of the tubular members they interconnect. However, Yoshioka et al (journal article)* teaches that it is known to connect several stents in series to obtain a graft up to 11 cm in length; see Material and Methods. Furthermore, an 11 cm long stent inherently has adjacent connector and tubular members angularly offset because fitting the 11 cm graft to an aorta would require bending, and thus, angularly offsetting the graft subcomponents. Hence, it is the examiner's position that it would have been obvious to bend, and thus, angularly offset the subcomponents of Wiktor's graft because the graft could then be used to fit a curvilinear blood vessel such as an aorta

*The Examiner called the publisher of this document on June 11, 1991 and was told that the October 1988 edition was first made available to the public on Sept. 20, 1988. Therefore, this article was made available 14 days prior to the effective filing date of the applicant's invention.

The indicated allowability of claims 3 and 6 has been withdrawn in view of the newly cited prior art to Wiktor and Yoshioka et al (article).

An inquiry concerning this communication should be directed to Paul Prebilic at telephone number (703).308-0858


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